IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO. 4536 OF 2006.

Sandeep Raghavji Gala... Applicant.
V/s.
M/s Crompton Graves Ltd. & ors.... Respondents.

Shri S.P. Kadam for the Applicant.

Shri B.D. Bahal for respondent No.1.
Shri S.R.Shinde, APP for the State.

CORAM: J.H.BHATIA,J

DATED: 19th January 2007.

P.C.:

. Shri B.D. Bahal, Advocate appears for respondent No.1.

2. Heard Shri Kadam for the applicant and Shri B.D. Bahal for respondent No.1, who is original complainant. It appears that number of criminal complaints under section 138 of the Negotiable Instruments Act were filed by the respondents against the present applicant and the applicant had requested to summon the Manager of the Syndicate Bank, Crawford Market Branch, with certain record, as a defence witness. It appears that on 18.12.2006 Shri Shrinivas Acharya, Senior Branch Manager appeared and stated on oath that the concerned record being old and being transferred to the godown he could not bring the

same

and he will have to take search for the same.

In

view of this, learned Counsel appearing for the accused requested the learned Special Metropolitan Magistrate to adjourn the matter so that the Branch Manager could produce the record. However, that request was turned down and without putting any question examination-in-chief was closed. It appears that no evidence could be given by the said branch manager for want of record. It was most improper for the learned Special Metropolitan Magistrate to reject the request made for adjournment, which was absolutely necessary for production of the record by the bank officer. In fact, by refusing time to produce record, time has been unnecessarily wasted. Taking into consideration the circumstances, I find that the learned Magistrate should have given some time to the bank officer to appear along with record. Therefore, the impugned order dated 18.12.2006 rejecting adjournment is set aside. The learned Special Metropolitan Magistrate shall again issue witness summons to the concerned branch manager of the Syndicate Bank with a direction to produce record.

. Application stands disposed in the above

terms.

(J.H. BHATIA,J)